

REMARKS

Filed concurrently herewith is a request for approval of drawing corrections which would label Figs. 1-4 as "Prior Art" as called for by the Examiner.

Claims 1 and 7 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Patent 4,750,905 - Koeneman et al.

By this response, Claims 1 and 7 have been cancelled, and a new main Claim 13 has been added to the case. Claim 13 recites structural features neither disclosed nor suggested by the Koeneman et al. reference. More particularly, applicant's femoral prosthesis is now recited in Claim 13 as being substantially oval-shaped in cross-section along its length except for a waist portion located substantially midway between the ends of the prosthesis, the waist portion including a twist of approximately 90° whereby the major axes of the proximal and distal portions of the prosthesis on opposite sides of the waist portion are disposed at an angle of substantially 90° with respect to one another.

The arrangement now claimed is quite different from that of Koeneman et al. As can be appreciated from the cross-sectional views of Figs. 3-8, the oval shaped cross-sections along the entire length of the Koeneman et al. prosthesis have major axes which differ very little from one another in their orientation, the maximum difference appearing to be about 35°. The differences are produced by a gradual twist imparted to the prosthesis over its entire length. This is totally different from the prosthesis now claimed by applicant wherein a twist of approximately 90° in a waist portion located

substantially midway between the ends of the prosthesis causes the major axes of the oval-shaped cross-sections on opposite sides of waist to be oriented substantially 90° with respect to one another. Therefore, Koeneman et al. neither disclose nor suggest applicant's presently claimed invention.

Claim 1 also has been rejected under 35 U.S.C. 102(b) as being anticipated by published European Application 0528 284 - Imhof. This reference is quite similar to Koeneman et al. as it relates to applicant's invention. As can be appreciated from Fig. 2, the prosthesis is only gradually twisted along its entire length whereby the major axes of the cross-sections have a maximum variation, when comparing one end of the prosthesis to the other, of less than 45° . This is entirely different from the result produced by applicant's invention wherein the substantially 90° twist in the central waist portion of the prosthesis causes the major axes of cross-sections on opposite sides of the waist to be disposed at a substantially 90° relationship with respect to one another. Therefore, the \S 102(b) rejection has been overcome by the replacement of Claim 1 by the new main Claim 13.

Inasmuch as Claims 2 and 3 now depend on Claim 13, the rejection of Claims 2 and 3 as being obvious in view of Imhof also has been overcome.

The now-cancelled Claims 1, 4, 7 and 10 also stand rejected under 35 U.S.C. 102(b) as being anticipated by WO 94/08534 - Draenert. For similar reasons discussed with respect to the Koeneman et al. patent and the Imhof application, applicant maintains that Draenert does not disclose or suggest applicant's invention, as now claimed. Referring to Fig. 1b of Draenert, it can be appreciated that the prosthesis is gradually twisted along its entire length

whereby the major axes of the cross-sections incrementally change so that only at opposite ends of the prosthesis are the major axes disposed at substantially 90° with respect to one another. This is totally different from the result achieved by applicant's invention in which a central waist portion of the prosthesis includes a substantially 90° twist whereby the cross-sections on opposite sides of the waist portion have major axes disposed substantially 90° relative to one another along the length of the prosthesis. For these reasons, Draenert neither discloses nor suggests what applicant now claims in new Claim 13.

For the reasons presented, it is applicant's contention that the remaining Claims 2, 3 and 13 are allowable over the prior art on which the Examiner relies. Accordingly, it is urged that the application is in condition for allowance, and such action is solicited.

Respectfully submitted,

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